



40 CFR Part 62

[EPA-R04-OAR-2021-0370; FRL-9092-01-R4]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Florida; Control of Emissions from Existing Municipal Solid Waste Landfills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a Clean Air Act (CAA) section 111(d) plan submitted by the Florida Department of Environmental Protection (FDEP) on December 22, 2020. This plan was submitted to fulfill the requirements of the CAA and is responsive to EPA's promulgation of Emissions Guidelines and Compliance Times for municipal solid waste (MSW) landfills. The Florida plan establishes emission limits for existing MSW landfills and provides for the implementation and enforcement of those limits.

DATES: Written comments must be received on or before insert date 30 days after date of publication in the Federal Register.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2021-0370 at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective

comments, please visit <https://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Katy Lusky, Air Analysis and Support Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth St., SW, Atlanta, Georgia 30303. The telephone number is (404) 562-9130. Ms. Lusky can also be reached via electronic mail at lusky.kathleen@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On August 29, 2016, EPA finalized revised Standards of Performance for new MSW landfills and Emission Guidelines and Compliance Times for existing MSW Landfills in 40 CFR part 60, subparts XXX and Cf, respectively (81 FR 59331 and 81 FR 59275). These actions were taken in accordance with section 111 of the CAA.

Section 111(d) of the CAA requires EPA to establish a procedure for a state to submit a plan to EPA which establishes standards of performance for any existing source for any air pollutant: 1) for which air quality criteria have not been issued or which is not included on a list published under CAA section 108 or emitted from a source category which is regulated under CAA section 112, but 2) to which a standard of performance under CAA section 111 would apply if such existing source were a new source. EPA established these requirements for state plan submittals in 40 CFR part 60, subpart B. State submittals under CAA sections 111(d) must be consistent with the relevant emission guidelines, in this instance 40 CFR part 60, subpart Cf, and the requirements of 40 CFR part 60, subpart B, and 40 CFR part 62, subpart A. If the state plan is complete and approvable with reference to these requirements, EPA notifies the public, promulgates the plan pursuant to 40 CFR part 62, and delegates implementation and enforcement of the standards and requirements of the emission guidelines to the state under the terms of the state plan as published in the CFR.

On December 22, 2020, the FDEP submitted to EPA a formal section 111(d) plan for existing MSW landfills. The section 111(d) plan was submitted in response to the August 29,

2016, promulgation of Federal New Source Performance Standards (NSPS) and emission guidelines requirements for MSW landfills, 40 CFR part 60, subparts XXX and Cf, respectively (81 FR 59331 and 81 FR 59275).

On July 7, 2021, the FDEP sent EPA a letter modifying its original plan. The modifications identified in the letter involve withdrawing the initial design capacity reporting requirement in 40 CFR 60.38f(a) and the initial nonmethane organic compound emission rate reporting requirement in 40 CFR 60.38f(c). The basis for withdrawing these reporting requirements is that, prior to the effective date of the Florida plan, owners and operators of existing municipal solid waste landfills in Florida, will have already satisfied these reporting requirements under provisions in the Federal plan for existing municipal solid waste landfills. Under the Federal plan in 40 CFR part 62, subpart OOO, the deadline for submitting initial design capacity and nonmethane organic emission rate reports is September 20, 2021.

II. Summary and Analysis of the Plan Submittal

EPA has reviewed the Florida section 111(d) plan submittal in the context of the plan completeness and approvability requirements of 40 CFR part 60, subparts B and Cf, and part 62, subpart A. EPA is proposing to determine that the submitted section 111(d) plan meets the above cited requirements. The Florida state plan submittal package includes all materials necessary to be deemed administratively and technically complete according to the criteria of 40 CFR 60.27. Included within the section 111(d) plan are regulations under the Florida Administrative Code (F.A.C.) specifically, F.A.C. 62-204.800(9)(h) – “Municipal Solid Waste Landfills, 40 C.F.R. Part 60, Subpart Cf, Emissions Guidelines and Compliance Times for Municipal Solid Waste Landfills that Commenced Construction, Reconstruction, or Modification on or Before July 17, 2014.” Florida houses its implementation and enforcement authority for the state plan requirements in these regulations. In this action, EPA is proposing to incorporate by reference F.A.C. 62-204.800(9)(h), which became effective in the State of Florida on June 15, 2020. A detailed explanation of the rationale behind this proposed approval is available in the

Technical Support Document (TSD) included in the docket for this action.

III. Proposed Action

EPA is proposing to approve the Florida section 111(d) plan for MSW landfills pursuant to 40 CFR part 60, subparts B and Cf. Therefore, EPA is proposing to amend 40 CFR part 62, subpart K, to reflect this action. This approval is based on the rationale previously discussed and in further detail in the TSD associated with this action.

The EPA Administrator continues to retain authority for approval of alternative methods to determine the nonmethane organic compound concentration or a site-specific methane generation rate constant (k), as stipulated in 40 CFR 60.30f(c).

IV. Incorporation by Reference

In this document, EPA is proposing to include regulatory text that incorporates by reference the state plan. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference F.A.C. 62-204.800(9)(h), which became effective in the State of Florida on June 15, 2020. F.A.C. 62-204.800(9)(h) provides details regarding Florida's adoption of the applicability provisions, compliance times, emission guidelines, operational standards, test methods, compliance provisions, monitoring requirements, reporting guidelines, recordkeeping guidelines, specifications for active landfill gas collection systems and definitions contained in EPA's emission guidelines for existing municipal solid waste landfills (40 CFR part 60, subpart Cf). EPA has made, and will continue to make, these materials generally available through the docket for this action, EPA-R04-OAR-2021-0370, at <https://www.regulations.gov> and at EPA Region 4 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

In reviewing state plan submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by

state law. For that reason, this proposed action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because this action is not significant under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed approval of Florida’s State plan submittal for existing MSW

landfills does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the State plan is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 62

Environmental protection, Air pollution control, Landfills, Incorporation by reference, Intergovernmental relations, Methane, Ozone, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 et seq.

October 13, 2021.

John Blevins,

Acting Regional Administrator,

Region 4.

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